



**Office of the New York State
Attorney General**

**Letitia James
Attorney General**

December 10, 2024

By ECF

Hon. Kenneth M. Karas
United States District Judge
United States Courthouse
300 Quarropas Street
White Plains, New York 10601-4150

Re: Baker v. Powell, *et al.*,
Index No. 23 Civ. 01626 (KMK)(JCM)

Dear Judge Karas:

I write respectfully on behalf of Defendants Lamanna and Gomprecht to request a thirty day adjournment of the expert discovery schedule. This request is based on several reasons, including the fact that Defendants' mental health expert has had issues scheduling an examination of the Plaintiff at Albion Correctional Facility

Pursuant to the Court's June 11, 2024 Order, Plaintiff's experts reports were due by November 15, 2024, Defendants' expert reports are due by December 13, 2024, Movant's pre-motion letter is due by January 7, 2025, and Non-Movant's response and all expert disclosures are due by January 15, 2025. See Dkt. # 59. In addition, a Case Management conference is scheduled for February 13, 2025, at 10:30 a.m. The Court in its Order stated that "there will be no further extensions." Id.

During the course of discovery, and at several status conferences with Magistrate McCarthy, I explained to opposing counsel that it would be of assistance to Defendants to advise me as far in advance as possible as to what types of experts they plan to retain as the process to retain an expert on behalf of the State is time-consuming, requiring several levels of internal approval and consultation with Counsel's Office for the New York State Department of Corrections and Community Supervision ("DOCCS"). On November 15, 2024, consistent with the Court's Order, counsel for Plaintiff served Defendants with the reports of three experts: a mental health expert, a hand-writing expert, and a corrections expert. I was not provided any advance notice by counsel for Plaintiff of their having retained any of these individuals. Defendants have not identified—and do not rely on—any affirmative expert reports. However, Defendants intend to provide a rebuttal report to counter Plaintiff's mental health expert and possibly one for Plaintiff's corrections expert. While Defendants endeavored to comply with the 30-days built into the schedule for such, we have been unable to do so.

To date, Defendants have retained a mental health expert, however, there has been difficulty in scheduling times for him to evaluate the Plaintiff by video, as Plaintiff remains incarcerated. Additionally, the parties have been working collaboratively to avoid the need to seek the Court's intervention in contested issues regarding Plaintiff's independent medical examination. Currently, based upon facility and expert availability, Defendants' expert is scheduled to evaluate Plaintiff by video this Thursday, December 12, 2024, and next Monday, December 16, 2024. The expert will then need time to draft a report. Additionally, while Defendants do not plan to retain a handwriting expert, they may retain a corrections expert, who will also require additional time to complete a rebuttal report.

While the Court previously indicated that there would be no further adjournments, Defendants respectfully request that this adjournment be granted due to the fact that logistical issues beyond their control have impeded their ability to respond to Plaintiff's experts within the time-frame set by the Court.

I have conferred with counsel for Plaintiff and Nurse Powell, and they consent to this requested adjournment. If the Court grants this request, the current schedule will be adjourned by thirty days such that the new schedule will be: (i) Defendants' expert reports will be due January 13, 2025; (ii) Movant's pre-motion letter will be due by February 6, 2025; and (iii) Non-Movant's Response, and the completion of all expert disclosures, will be due by February 14, 2025. In addition, the case management conference will need to be adjourned to a date after February 14, 2025.

Thank you very much for your consideration of this application.

Respectfully submitted,

/s/ Neil Shevlin

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cc: Counsel for all parties (by ECF)